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OCT - 5 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

MICHAEL G. JONES
(202) 728-0002
Licensed in Virginia Only

October 5, 1994

Mr. William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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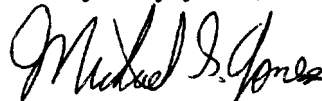
**Re: Direct Written Case of Praise Media, Inc.
MM Docket No. 93-265**

Dear Mr. Caton:

Transmitted herewith and filed on behalf of Praise Media, Inc. are an original and six copies of its Direct Written Case in the above-referenced proceeding regarding the renewal of the license for station KARW(AM).

Should you have any questions regarding this matter, please contact the undersigned.

Very truly yours,



Michael G. Jones

No. of Copies rec'd
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TABLE OF CONTENTS

CERTIFICATION

EXHIBIT 1

BIOGRAPHY OF JANET WASHINGTON

EXHIBIT 2

TRANSFERS OF CONTROL

EXHIBIT 3

OWNERSHIP STRUCTURE OF PRAISE MEDIA, INC.

EXHIBIT 4

RESPONSE TO FCC CORRESPONDENCE

EXHIBIT 5

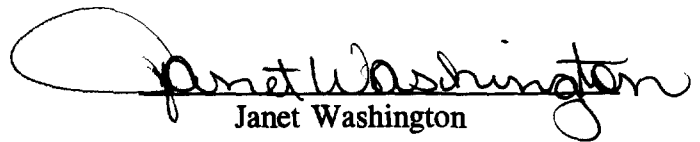
COMPLIANCE WITH COMMISSION RULES

EXHIBIT 6

FILING OF RENEWAL APPLICATION

CERTIFICATION

I, Janet Washington, General Manager of AM radio station KARW, Longview, Texas, and sole active officer, director and shareholder of Praise Media, Inc., hereby state under pain and penalty of perjury that the information submitted in each of the following Praise Exhibits (1 through 6) is true and correct to the best of my knowledge, information and belief, where such information is based on my personal knowledge. Where such information is based on records of the FCC and/or other documents provided to me concerning prior transactions involving station KARW, I believe such information to be true and correct.


Janet Washington

Date: Oct. 5, 1994

BIOGRAPHY OF JANET WASHINGTON

Janet Washington is an African-American female, born on April 20, 1958 in Jasper, Texas. Ms. Washington received her high school diploma on May 29, 1976. She attended 3 1/2 years of college at Texas Southern University between 1976 and 1980, but received no degree. She is a certified pharmacy technician, and well as a certified heart monitor technician. She has a five-year-old son, Amir Rasheed Washington. She married Eugene Washington (aka Sharif Shabazz) on January 12, 1989, but has been separated from him since early 1990. Ms. Washington lives in Longview, Texas. Eugene lives in Chicago, Illinois.

The following is the full time employment history of Ms. Washington:

1977-1978 St. Joseph Hospital Pharmacy, pharmacy courier.

Ms. Washington accepted placements through a temporary agency at the following companies. these placements included part-time work on call as well as long term assignments. The jobs were held at various times during the time period of 1980-1987.

General Electric, customer service assistant. Sohio Petroleum Oil Co., Seismic Library. IBM, PBX operator. Italy in Houston (in association with Italian Consulate), promotion of tourism in Italy. Mervyn's Department Store, cashier on a seasonal basis. Joske's Department Store, cashier on a seasonal basis. Telemarketing of various products, including vacation packages, carpet cleaning, etc.

Also during the time period 1980-1987, Ms. Washington worked in the following positions: Memorial City Hospital Pharmacy, Administrative Technician; Park Plaza Hospital Pharmacy, Medication Technician; Methodist Hospital Pharmacy, Cardiovascular Intensive Care

PRAISE EXHIBIT 1

Technician; St. Luke Hospital Pharmacy, Medication Technician; Veteran Hospital Pharmacy, Medication Technician.

From January 1990 - March 1990 Ms. Washington worked for Goodwill Industries as a store manager.

From March 1990 - August 1990, Ms. Washington worked in the County Judges' Office as an administrative assistant.

From August 1990 - August 12, 1992, Ms. Washington worked for Good Shepherd Hospital Owen Pharmacy as a Pharmacy Tech.

From March 1991 - August 9, 1992, Ms. Washington worked for Rader Funeral Home Rose Wood Park as a telemarketer.

From August 1992 - Present, Ms. Washington has served as General Manager of station KARW, 1280 AM, Longview, Texas.

Prior to her involvement with station KARW, she had no experience in the broadcast industry and no knowledge of FCC procedures. Ms. Washington's involvement in Praise Media, Inc. and station KARW is further detailed in Praise Exhibit 2.

TRANSFERS OF CONTROL

On November 10, 1988, the Commission granted an application to transfer control of Pine Tree Media, Inc. ("Pine Tree") from Herbert Wren ("Wren") and Earl Jones ("Jones") to Kenneth Tuck ("Tuck"). *Hearing Designation Order and Notice of Forfeiture*, 8 FCC Rcd 7591 (1993) ("*HDO*"). Tuck, Wren and Jones apparently consummated the transfer on December 12, 1988. *Id.* No ownership report was filed. *Id.* Tuck apparently died sometime in May, 1990. *Id.* As noted in the *HDO*, the promissory note made by Tuck in payment for station KARW and/or for the stock in Pine Tree was transferred by Wren and Jones to a company known as American Plastic Products, Inc. ("American Plastics") on May 17, 1990. As consideration for the transfer of the Tuck note to American Plastics, Wren and Jones received a promissory note made by American Plastics. *Id.* See "Transfer of Lien" from Wren and Jones to American Plastics, submitted as Attachment 2 to Mass Media Bureau Exhibit 1.¹ American Plastics foreclosed on the assets securing that note on or about July 3, 1990. See, "Notice of Trustee's Sale," submitted as Attachment 3 to Mass Media Bureau Exhibit 1. The assets securing the note included the real and personal property associated with the station and the stock of Pine Tree. See, "Promissory Note" of December 10, 1988, attached hereto as Praise Exhibit 2, Attachment A.

On August 6, 1991, Wren and Jones foreclosed on the above-referenced note issued to them by American Plastics and thereby reacquired the assets securing that note, including the stock of Pine Tree, and the real and personal property associated with the station.

¹ Most of the documents referenced in Praise Exhibit 2 are being submitted as exhibits by the Mass Media Bureau and are not being duplicated as attachments to Praise Exhibit 2.

PRAISE EXHIBIT 2

See "Security Agreement" attached hereto as Praise Exhibit 2, Attachment B, and "Trustee's Deed," submitted as Attachment 4 to Mass Media Bureau Exhibit 1.

In September of 1991, Janet Washington met Ray Lee Williams, who was at the time employed at KARW and was looking for a partner to help finance the acquisition of the station from Wren and Jones. Ms. Washington initially called the station to speak to a Mr. Tuck as part of her job in telemarketing for a funeral home. At the time, Ms. Washington had no knowledge of Mr. Tuck, but was only given his name as a potential buyer in connection with her telemarketing job. She spoke with Mr. Williams who identified himself as the station's general manager. Mr. Williams was impressed with Ms. Washington's sales presentation and offered her a job selling time for the station.

Ms. Washington's initial contact with Ray Lee Williams led to discussions with him concerning an effort to form a group to buy station KARW which Mr. Williams indicated was for sale. Ms. Washington, as a single parent and having an extensive work history, was looking for a investment opportunity at the time, and thought the investment in the station was promising. Although Ms. Washington had no prior broadcast experience and no experience as the owner or manager of any business, she paid \$6,000.00 to Wren to "take the station off the market;" at the time Ms. Washington was under the impression that other parties were interested in purchasing the station. After discovering that Mr. Williams and another unnamed potential investor did not have their share of the down payment, and faced with the prospect of losing her initial investment, Ms. Washington requested assistance from her estranged husband, Eugene Washington, who resided in Chicago. Mr. Washington chided Ms. Washington for not having

PRAISE EXHIBIT 2

investigated the matter completely before investing, but agreed to look into the matter. Ms. Washington was glad for his help, because, at that time, her interest in the station was purely as an investment vehicle. She had no interest in becoming a broadcaster at the time, and only sought help from her husband to protect her \$6,000 investment.

In approximately September of 1991, Mr. Washington visited the station. After his visit, he said he would help buy the station, but that his interest was primarily in the real estate. Ms. Washington's primary interest was in the station and its operating license, but still only for investment purposes. Mr. Washington discussed the purchase with Mr. Wren. At the time, Mr. Wren wanted a \$20,000 down payment and a total purchase price of \$110,000. In light of the condition of the station and its facilities, including the FCC technical rule infractions which required correction, Mr. Washington was able to negotiate to pay the \$20,000 down payment in three installments, one of \$10,000 and two of \$5,000. Mr. Washington suggested that he and Ms. Washington form a corporation to purchase the station, both to limit their liability and to provide a means by which he could oversee the situation and protect his investment. Mr. Washington was not in favor of including Mr. Williams in the purchasing group, because he did not believe Mr. Williams was qualified to be a General Manager and because Mr. Williams did not have any money to invest in the venture. Ms. Washington insisted that Mr. Williams be included, because he was the one who initiated the process and she felt that he should be given a reasonable amount of time to pay for his stake in the company. In the end, Mr. Washington capitulated and agreed to include Mr. Williams as Vice-President at Ms. Washington's suggestion. Ms. Washington's intention was to stay in Longview long

PRAISE EXHIBIT 2

enough to ensure that her investment was sound and the station was operating properly, and then move and monitor her investment without being directly involved in its day-to-day operation.

Between October 1991 and January 1992, Mr. and Ms. Washington paid Mr. Wren the \$20,000 down payment as scheduled, and agreed to meet with Wren and his attorney shortly thereafter to draw up terms. (The Washingtons paid the full amount because Mr. Williams failed to pay his share of the down payment.) Mr. and Ms. Washington and Mr. Williams met with Mr. Wren and his attorney to negotiate the terms of the sale of the station on or about February 3, 1992.

At the time these negotiations occurred and throughout the process whereby the transfer documents were prepared and executed, Praise and its principals were unrepresented by legal counsel. For this reason, the transfer documents do not in all respects reflect Praise's understanding of the agreement between the parties. It appears that Praise and Wren and Jones shared the belief that this transaction could be consummated without prior Commission approval. At the meeting which occurred on or about February 3, 1992, Ms. Washington questioned Wren about the transfer of the license. Ms. Washington was informed by Wren that before the FCC will approve transfer of the license, the prospective assignee must demonstrate that it has capital from committed resources sufficient to cover 6-months operating expenses for the station. Because Praise did not have such sums available, Wren suggested that Praise first purchase the station by making a down payment and executing a note back to Wren and Jones for the balance of the \$110,000 purchase price, then pay off the note as soon as possible and borrow against the then-unencumbered station assets to obtain the necessary 6-months operating capital to secure

PRAISE EXHIBIT 2

FCC approval of the transfer of the license. Wren stated that he would execute whatever documents were necessary to secure FCC approval of the transfer of the license.² Based on these representations, Praise's understanding at the time of the purchase (February 10, 1992) was that Wren owned both the license and the station and its assets outright, and that the sale of the station could be consummated prior to requesting approval of the license transfer from the FCC. Throughout this negotiation process, the principals of Praise were unaware that the prior transactions involving the station could constitute possible unauthorized transfers of the FCC license.

On February 10, 1992, Eugene Washington and Ray Lee Williams, acting as President and Vice-President of Praise, respectively, signed several transaction documents evidencing the purchase of station KARW. *See*, "Memorandum," "Warranty Deed," "Deed of Trust," "Vendor's Lien Note," "Bill of Sale," and "Security Agreement," all executed February 10, 1992, and submitted as Attachment 5 to Mass Media Bureau Exhibit 1. The transaction documents dated February 10, 1992, constituted both the purchase agreement between the parties and the consummation of that agreement. The transaction document titled "Memorandum" states that Praise acquired all right and title to the assets of station KARW to which Wren and Jones had an interest, along with any interest Wren and Jones had in Pine Tree and the license for KARW. As described above, the interest in KARW (and in the stock of Pine Tree) transferred by Wren and Jones can be traced directly to Pine Tree and Tuck.

² The principals of Praise dealt exclusively with Dr. Wren and/or his attorneys during the transaction and subsequently. Ms. Washington has never met or spoken with Mr. Jones.

PRAISE EXHIBIT 2

After closing on February 10, 1992, Praise began paying the employees (until that time, the "employees" of the station were not compensated by the station). Mr. Williams initially undertook the role of General Manager. Ms. Washington was still employed by Good Shepherd Hospital in Longview working the overnight shift in the pharmacy. On many weekday mornings, Ms. Washington would stop at the station when she got off of work at 7:00 am to check on how the station was operating. Between February 10, 1992, and late May of 1992, Ms. Washington became increasingly concerned with the operation of the station and the personnel in management positions, most specifically Mr. Williams, whom she suspected of at least mishandling the station and its revenues, and possibly wrongfully converting some station revenues to his own use.

In May 1992, Ms. Washington called Mr. Washington and suggested that the station hire Alvin Jones, a radio consultant, to give them advice in all aspects of the operation of the radio station. Among other things, Mr. Jones reviewed the FCC's files along with Chris Holt, an attorney who practices before the FCC. In a phone conversation in mid-June 1992, Mr. Jones and Mr. Holt informed Mr. and Ms. Washington that there were problems with the status of the FCC license, and advised them to ask Dr. Wren to take care of the license transfer immediately. At Ms. Washington's insistence, they contacted Dr. Wren to express her concern as to the transfer of the license. Dr. Wren again assured Mr. and Ms. Washington that the license could be transferred at the time Praise paid off its note to him, and that Judge Miller (Wren's local attorney) could assist Praise in transferring the license. Dr. Wren also stated that

PRAISE EXHIBIT 2

Praise would need an FCC attorney at that time, and that the transfer process would require \$10,000 and the afore-mentioned 6 months operating capital.

Mr. Jones' advice also covered the operations of the station. He stated that the staff all needed training and that Mr. Williams needed training as well to function properly as General Manager. He also made specific suggestions as to the operation of the station. Mr. Williams failed to implement these suggestions, and was finally removed from his position as General Manager after Ms. Washington's fears that Mr. Williams was converting station funds to his use turned out to be justified. During the period before Mr. Williams ouster, Ms. Washington assumed more day-to-day functions. In preparation for assuming control of the station's operations, Ms. Washington visited other radio stations (such as KCOH(AM) in Houston) to learn the details of station operations. Ms. Washington finally assumed the position of full time General Manager of KARW in late August 1992, a position she has held since that date. Since Ms. Washington became General Manager, she has exercised control over the station, from time to time consulting with Mr. Washington, who remained in Chicago, on important decisions. Mr. Washington increasingly deferred to Ms. Washington's judgment on station operations, eventually leaving Ms. Washington to make all decisions regarding the station, including programming, sales, hiring and firing, etc.

PRAISE EXHIBIT 2, ATTACHMENT A

PROMISSORY NOTE

\$200,000.00

December 10, 1988

Texarkana, Texas

FOR VALUE RECEIVED, Kenneth Tuck (hereinafter "the Maker") promises to pay to the order of Dr. Herbert Wren and Earl Jones or their assigns (hereinafter "the Payee"), at 804 East 12th Street, Texarkana, Arkansas 75502, or at such other address as shall be directed in a written notice from the Payee or any other Holder of this Note delivered to Maker at least fifteen (15) days prior to the date of payment, the sum of Two Hundred Thousand Dollars (\$200,000.00), with interest as specified below, lawful money of the United States of America in the manner and at the times following:

Interest

Interest on said principal sum shall accrue from the date hereof at a per annum rate to be adjusted as provided herein. The initial interest rate on this Note shall accrue daily from the date hereof at 11.5% per annum. The interest rate shall be adjusted periodically so that it is equivalent to the prime rate of Chemical Bank of New York plus one percent (1%). This adjustment in interest rate shall occur and be effective as of the first business day of the month in which a payment under this Note is due. Interest on said principal sum shall in no event

accrue at a rate in excess of the maximum amount permitted under applicable law.

Payment Schedule

The principal of this Note shall be paid in eight (8) installments of \$25,000.00 each, the first of such installments being due and payable on August 10, 1989, and a like installment shall be due and payable every eight months thereafter, with the final installment being due on April 10, 1994. The interest upon this Note shall be paid as it accrues on the due date of each installment of principal, and is in addition to such installments of principal.

Security for Note

Payment of this Promissory Note is guaranteed by Pine Tree Media, Inc. ("Guarantor") and is secured by a separate pledge of the capital stock of Guarantor, by a security agreement on certain chattel assets of Guarantor and by a deed of trust on certain real estate of Guarantor, all of which instruments are being executed on the same date as this Note.

Acceleration of Payment

The entire unpaid balance owed on this Note shall become immediately due and payable upon the occurrence of any of the following events:

1. If any installment due under this Note is not made in full (both principal and interest) on or before the due date.

2. If any default, as defined in the Stock Pledge Agreement, Security Agreement or Mortgage, occurs.

3. If Maker, either individually or on behalf of the Guarantor, takes any action that would constitute a default under the Security Agreement dated December 9, 1982, and as extended December 7, 1984, between Guarantor and The Texarkana National Bank.

4. Upon any agreement by the Maker or Guarantor to sell, assign or transfer any part of its interest in the broadcasting license it presently holds for Radio Station KLGW, presently operating on 1280 kHz in Longview, Texas, by whatever call sign it may then be known; provided, however, that payment may be deferred until closing if the agreement of assignment or transfer specifically provides for payment of this Note to the Payee in cash from the proceeds of closing, the Payee receives a copy of the agreement so providing within one week after execution, Maker is not in default under the payment provisions of this Note and remains not in default until closing, and the cash provided in the agreement is actually received by the Payee at closing.

The failure of the Payee to demand full payment of the balance on this Note or promptly to pursue payment through legal

action or otherwise, once an event accelerating payment under this Note has occurred, shall not be deemed a waiver of its right at any subsequent time to demand and receive such full payment.

Prepayment

The Maker shall at any time have the right to prepay the entire principal balance due on this Note and any interest accrued thereon up to the time of prepayment, without fee or penalty.

Right To Cure

If any representation, warranty, covenant or obligation of Maker under this Note is breached and the breach can be cured by payment of money, and the Maker makes such payment within fifteen (15) days after written notice of breach and indemnifies the Payee against all other liability, damage, loss or expense in connection therewith, the Maker shall be deemed to have complied with its obligations hereunder with respect to such representation, warranty, etc., and the breach shall be considered cured.

Collection

The Maker of this Note does hereby expressly waive all exemptions allowed by law and agrees to pay all costs of collecting this Note, including reasonable attorneys' fees, for services rendered in any way in any suit against the Maker or in collecting or attempting to collect or in securing or attempting to secure

this Note; provided that suit or collection is based upon Maker's failure to pay when due. Except as indicated herein, demand, presentment, notice of nonpayment and protest of this Note are waived by the Maker.

Notices

All notices required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when deposited in the U.S. Mail, first class postage prepaid, addressed as follows (or to such different addresses as shall have been furnished by the parties in a written notice referring specifically to this paragraph):

Address of Maker

Kenneth Tuck
Pine Tree Media, Inc.
2929 Signal Hill Road
Longview, TX 75607

Address of Payee:

Herbert Wren
804 East 12th Street
Texarkana, AR 75502

Earl Jones
2318 Jefferson Avenue
Texarkana, AR 75502

Copy to:

Copy to:

Edward Miller, Esq.
Keeney, Anderson, Miller,
James & Tate
1012 Olive Street
P.O. Box 2044
Texarkana, TX 75504

IN WITNESS WHEREOF, we, the Maker and Guarantor, have set
our hands on the day and year above written.

Witness:

KENNETH TUCK

Archie V. Kerby

Kenneth Tuck

Maker

PINE TREE MEDIA, INC. hereby guarantees the payment of
this Note:

PINE TREE MEDIA, INC.

ATTEST:

Kenneth Tuck

By:

Kenneth Tuck
Kenneth Tuck
President

PRAISE EXHIBIT 2, ATTACHMENT B

SECURITY AGREEMENT

Date: May 17, 1990

Debtor: AMERICAN PLASTIC PRODUCTS, INC.

Debtor's Mailing Address (including county):

P.O. Box 467, New London, Rusk County, Texas 75682

Secured Party: HERBERT WREN and EARL JONES

Secured Party's Mailing Address (including county):

804 East 12th Street, Texarkana, Arkansas 75502

Classification of Collateral:

Furniture, fixtures, equipment, personal property, instruments and general intangibles.

Collateral (including all accessions):

1. Furniture, fixtures, equipment and personal property previously owned by Pine Tree Media, Inc., which has been acquired by Debtor.
2. 10,000 shares Pine Tree Media, Inc. common stock.
3. A \$200,000.00 Promissory Note dated December 12, 1988, signed by Kenneth Tuck as Maker, payable to Dr. Herbert Wren and Earl M. Jones.

Obligation
Note

Date: May 17, 1990

Amount: \$112,500.00

Maker: American Plastic Products, Inc.

Payee: Herbert Wren and Earl Jones

Final Maturity Date: July 9, 1992

Terms of Payment (optional):

As therein provided

Other Obligation:

None.

Debtor's Representation Concerning Location of Collateral (optional):

Subject to the terms of this agreement, Debtor grants to Secured Party a security interest in the collateral and all its proceeds to secure payment and performance of Debtor's obligation in this security agreement and all renewals and extensions of any of the obligation.

Debtor's Warranties

1. Financing Statement. Except for that in favor of Secured Party, no financing statement covering the collateral is filed in any public office.
2. Ownership. Debtor owns the collateral and has the authority to grant this security interest. Ownership is free from any setoff, claim, restriction, lien, security interest, or encumbrance except this security interest and liens for taxes not yet due.

ST.BAR #2267.RBC

3. **Fixtures and Accessions.** None of the collateral is affixed to real estate, is an accession to any goods, is commingled with other goods, or will become a fixture, accession, or part of a product or mass with other goods except as expressly provided in this agreement.

4. **Financial Statements.** All information about Debtor's financial condition provided to Secured Party was accurate when submitted, as will be any information subsequently provided.

Debtor's Covenants

1. **Protection of Collateral.** Debtor will defend the collateral against all claims and demands adverse to Secured Party's interest in it and will keep it free from all liens except those for taxes not yet due and from all security interests except this one. The collateral will remain in Debtor's possession or control at all times, except as otherwise provided in this agreement. Debtor will maintain the collateral in good condition and protect it against misuse, abuse, waste, and deterioration except for ordinary wear and tear resulting from its intended use.

2. **Insurance.** Debtor will insure the collateral in accord with Secured Party's reasonable requirements regarding choice of carrier, casualties insured against, and amount of coverage. Policies will be written in favor of Debtor and Secured Party according to their respective interests or according to Secured Party's other requirements. All policies will provide that Secured Party will receive at least ten days' notice before cancellation, and the policies or certificates evidencing them will be provided to Secured Party when issued. Debtor assumes all risk of loss and damage to the collateral to the extent of any deficiency in insurance coverage. Debtor irrevocably appoints Secured Party as attorney-in-fact to collect any return, unearned premiums, and proceeds of any insurance on the collateral and to endorse any draft or check deriving from the policies and made payable to Debtor.

3. **Secured Party's Costs.** Debtor will pay all expenses incurred by Secured Party in obtaining, preserving, perfecting, defending, and enforcing this security interest or the collateral and in collecting or enforcing the note. Expenses for which Debtor is liable include, but are not limited to, taxes, assessments, reasonable attorney's fees, and other legal expenses. These expenses will bear interest from the dates of payments at the highest rate stated in notes that are part of the obligation, and Debtor will pay Secured Party this interest on demand at a time and place reasonably specified by Secured Party. These expenses and interest will be part of the obligation and will be recoverable as such in all respects.

4. **Additional Documents.** Debtor will sign any papers that Secured Party considers necessary to obtain, maintain, and perfect this security interest or to comply with any relevant law.

5. **Notice of Changes.** Debtor will immediately notify Secured Party of any material change in the collateral; change in Debtor's name, address, or location; change in any matter warranted or represented in this agreement; change that may affect this security interest; and any event of default.

6. **Use and Removal of Collateral.** Debtor will use the collateral primarily according to the stated classification unless Secured Party consents otherwise in writing. Debtor will not permit the collateral to be affixed to any real estate, to become an accession to any goods, to be commingled with other goods, or to become a fixture, accession, or part of a product or mass with other goods except as expressly provided in this agreement.

7. **Sale.** Debtor will not sell, transfer, or encumber any of the collateral without the prior written consent of Secured Party; Secured Party consents to the transfer of the collateral to Tuck Communications, Inc., or any other entity owned or controlled by Debtor or any of its shareholders.

Rights and Remedies of Secured Party

1. **Generally.** Secured Party may exercise the following rights and remedies either before or after default:

- a. take control of any proceeds of the collateral;
- b. release any collateral in Secured Party's possession to any debtor, temporarily or otherwise;

- c. take control of any funds generated by the collateral, such as refunds from and proceeds of insurance, and reduce any part of the obligation accordingly or permit Debtor to use such funds to repair or replace damaged or destroyed collateral covered by insurance; and
 - d. demand, collect, convert, redeem, settle, compromise, receipt for, realize on, adjust, sue for, and foreclose on the collateral either in Secured Party's or Debtor's name, as Secured Party desires.
2. Insurance. If Debtor fails to maintain insurance as required by this agreement or otherwise by Secured Party, then Secured Party may purchase single-interest insurance coverage that will protect only Secured Party. If Secured Party purchases this insurance, its premiums will become part of the obligation.

Events of Default

Each of the following conditions is an event of default:

- 1. if Debtor defaults in timely payment or performance of any obligation, covenant, or liability in any written agreement between Debtor and Secured Party or in any other transaction secured by this agreement;
- 2. if any warranty, covenant, or representation made to Secured Party by or on behalf of Debtor proves to have been false in any material respect when made;
- 3. if a receiver is appointed for Debtor or any of the collateral;
- 4. if the collateral is assigned for the benefit of creditors or, to the extent permitted by law, if bankruptcy or insolvency proceedings commence against or by any of these parties: Debtor, any partnership of which Debtor is a general partner; and any maker, drawer, acceptor, endorser, guarantor, surety, accommodation party, or other person liable on or for any part of the obligation;
- 5. if any financing statement regarding the collateral but not related to this security interest and not favoring Secured Party is filed;
- 6. if any lien attaches to any of the collateral;
- 7. if any of the collateral is lost, stolen, damaged, or destroyed, unless it is promptly replaced with collateral of like quality or restored to its former condition.

Remedies of Secured Party on Default

During the existence of any event of default, Secured Party may declare the unpaid principal and earned interest of the obligation immediately due in whole or part, enforce the obligation, and exercise any rights and remedies granted by the Texas Uniform Commercial Code or by this agreement, including the following:

- 1. require Debtor to deliver to Secured Party all books and records relating to the collateral;
- 2. require Debtor to assemble the collateral and make it available to Secured Party at a place reasonably convenient to both parties;
- 3. take possession of any of the collateral and for this purpose enter any premises where it is located if this can be done without breach of the peace;
- 4. sell, lease, or otherwise dispose of any of the collateral in accordance with the rights, remedies, and duties of a secured party under chapters 2 and 9 of the Texas Uniform Commercial Code after giving notice as required by those chapters; unless the collateral threatens to decline speedily in value, is perishable, or would typically be sold on a recognized market, Secured Party will give Debtor reasonable notice of any public sale of the collateral or of a time after which it may be otherwise disposed of without further notice to Debtor; in this event, notice will be deemed reasonable if it is mailed, postage prepaid, to Debtor at the address specified in this agreement at least ten days before any public sale or ten days before the time when the collateral may be otherwise disposed of without further notice to Debtor;
- 5. surrender any insurance policies covering the collateral and receive the unearned premium;
- 6. apply any proceeds from disposition of the collateral after default in the manner specified in chapter 9 of the Texas Uniform Commercial Code, including payment of Secured Party's reasonable attorney's fees and court expenses; and